
OLR Bill Analysis

sHB 6549

AN ACT ESTABLISHING A MEDIATION PROGRAM FOR CERTAIN INSURANCE POLICY CLAIMS ARISING FROM A CATASTROPHIC EVENT.

SUMMARY:

This bill requires the Insurance Department's Division of Consumer Affairs to establish a program to mediate disputes between claimants and insurance companies to settle certain claims that involve losses from catastrophic events for which the governor has declared a state of emergency. The program must address any dispute arising from a catastrophic event where the difference between the parties' positions is \$5,000 or more, not counting any applicable deductible. The parties may agree to mediate a dispute involving a smaller amount.

The bill requires the commissioner to designate an entity as his designee to implement the program and specifies the conditions an entity must meet to be designated. The mediation must be conducted in accordance with procedures the entity establishes that are approved by the insurance commissioner.

Insurers licensed to provide insurance in the affected areas must participate in the program. The insurer must pay mediation fee to the designated entity within five business days after it receives an invoice for the mediation from the entity. The insurer is not responsible for any cost incurred by an insured for advisors or representatives, such as attorneys or public adjusters.

The bill requires the commissioner to adopt implementing regulations and specifies what they must contain.

A claimant's right to request mediation does not affect any other right he or she may have to redress the dispute, including any remedies specified in the insurance policy or any right provided by

law.

EFFECTIVE DATE: October 1, 2013

AFFECTED POLICIES

The bill applies to claims under a:

1. personal risk insurance policy, other than a private passenger nonfleet automobile insurance,
2. condominium association master policy, or
3. condominium unit owners' association property insurance policy.

The mediation program does not apply to:

1. disputes where the insurer has reported allegations of fraud, based on an investigation by its special investigative unit, to the department or
2. claims made under a flood policy issued by the National Flood Insurance Program.

ADMINISTRATIVE ENTITY

Under the bill, the commissioner must not designate an entity to administer the program unless it agrees to:

1. let the commissioner oversee its operational procedures regarding the administration of the program,
2. give the commissioner access to all of the systems, databases and records related to the mediation program, and
3. report to the commissioner in a form and as he prescribes;

In order to be designated, the entity's procedures must require that:

1. the parties agree before the mediation, in writing, that statements made in the mediation are confidential and will not

be admitted into evidence in any civil action on the claim, except with respect to proceedings or investigations of insurance fraud;

2. a settlement reached in a mediation must be transcribed into a written agreement, on a form approved by the commissioner, that is signed by the claimant and an authorized representative of the insurer;
3. a settlement prepared during a mediation must allow the claimant to rescind it within three business days after it is reached, so long as he or she has not cashed or deposited any check or draft disbursed to him or her for the disputed matters as a result of the settlement; and
4. the mediator may terminate a mediation session upon determining that the claimant or the insurer's representative is not participating in good faith. If even after good faith efforts, a settlement cannot be reached, the entity may (a) schedule additional sessions if it believes they will result in a settlement; (b) require the insurer to send a different representative to a rescheduled mediation session if the first one did not participate in good faith, and pay any fee for the other representative; and (c) reschedule a mediation session if the mediator determines that the claimant is not participating in good faith, but only if the claimant pays the entity's fee for the mediation.

REGULATIONS

The implementing regulations must at least include:

1. the form and manner of notification by the insurer to an insured of the right to mediation,
2. the forms and procedures for an insured or insurer to request a mediation proceeding, and
3. the requirements for an insurer's participation at the mediation hearing.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/14/2013)